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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,801	12/13/2003	Stephen C. Gordy	15436.204.2.1	3854
22913	7590	12/16/2008		
Workman Nydegger 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111			EXAMINER	
			MACILWINEN, JOHN MOORE JAIN	
			ART UNIT	PAPER NUMBER
			2442	
			MAIL DATE	DELIVERY MODE
			12/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/735,801

Applicant(s)

GORDY ET AL.

Examiner

John M. MacIwinen

Art Unit

2442

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see pages 9 - 14, filed 10/20/2008, with respect to the rejections of claims 1-6 and 8-11 have been fully considered and are persuasive. The rejections of said claims under 35 USC 103 has thus been withdrawn.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter for the reasons given below in the 35 USC 112 written description rejection. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, it is not clear what the particular "means for combining the network data" and "means for inserting device data received" is represented by in Applicant's specification.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 2442

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the particular "means for combining the network data" and "means for inserting device data received" are unclear.

The "means for combining the network data" is described, specifically in paragraph 125 and Fig. 15; however, paragraph 125 states that "Switch 356 and/or fan out buffer 392 thus provides means for combining". Due to said "and/or" language, the 'means for' is unclear. That is, it is unclear if said 'means for' is (1) just the switch 356, (2) the switch 356 in combination with the fan out buffer 392, or (3) just the fan out buffer 392; based on the above language, all three embodiments appear to be claimed, but it is unclear how just the fan out buffer 392 alone could perform as said 'means for combining'.

Regarding the "means for inserting device data received . . . without disrupting the flow of data in the network cable", said limitation is discussed in Fig. 3 and paragraphs 45, 46, 72 and 89. However, based on these sections of the specification, it is unclear what specific items/'means for' are required to achieve the functionality of "inserting device data received . . . without disrupting the flow of data in the network cable".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. MacIwincin whose telephone number is (571)

272-9686. The examiner can normally be reached on M-F 7:30AM - 5:00PM EST; off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Caldwell/
Supervisory Patent Examiner, Art
Unit 2442

John MacIlwain
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